IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA:

RFA.No.5/2000

Date of Decision :14.6.2007...

Daulat Ram. ...Appellant.

Versus:

Jagdish Kumar and others. ...Respondents.

Coram:

The Hon'ble Mr.Justice Sanjay Karol, Judge.

Whether approved for reporting?[1]

For the appellant: Mr.R.K.Gautam, Sr.Advocate with Mr.Naveen Bhardwaj, Advocate.

For Respondents 1 to 4. Mr.T.S.Chauhan, Advocate.

For Respondent No.5. Mr.J.K.Verma, Dy.Advocate General.

For Respondent No.6. Mr.Anand Sharma, Advocate.

Sanjay Karol, J (Oral).

The appellant has filed the present appeal aggrieved by the award dated 12.11.1999 passed by District Judge, Bilaspur, H.P. in Land Reference Case No.60 of 1988, dismissing his claim of share in the awarded amount along with Durga Ram-respondent No.6 .

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[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

The facts in brief are that in terms of award dated 25th March, 1987 the land comprised in Khasra No.75/1 measuring 0-10 biswas in Nalwar, Tehsil Sadar, District Bilaspur was acquired for setting up of Slapper-Bhiwani Tower line. The total awarded amount was Rs.6,486.52 paise. Aggrieved by the said award, a reference petition under Section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was filed on 25th February, 1988 by one Shri Puran Chand predecessor-in-interest of the present respondents No. 1 to 4 (hereinafter referred to as private respondents).The same was registered as Land Reference Case No.60 of 1988 before the District Judge, Bilaspur, H.P.

During the pendency of the said case, the present appellant Shri Daulat Ram filed an application under Order 1 Rule 10 C.P.C. for impleadment on the ground that he is a co-sharer in the land and, therefore enhanced awarded amount should be apportioned and disbursed to him also. Based on the pleadings, the District Judge framed the following issues:

1. Whether the petitioners are entitled to enhanced amount of compensation on account of the market value of the acquired and, if so, to what extent?.
…OPP.

2. If issue No.1 supra is proved, whether Shri Daulat Ram, respondent No.2 is also entitled to any share of enhanced amount of compensation?.
…OPR.

3. Whether the claim for enhancement made by Shri Daulat Ram, respondent No.2 is time barred?.
…OPP.

4. Whether the petitioners are not entitled to enhanced amount of compensation?
…OPR-2.

5. Relief.

The private respondents herein led evidence to establish their claim of enhancement and also dis-entitlement of the right of the present appellant.

Issues No. 2 and 3 were answered by the District Judge in favour of the private respondents.

Since the private respondents and also the State have not filed an appeal and assailed the finding on issue No.1, therefore I am touching the same in the present proceedings

Learned counsel for the appellant has argued that the appellant's claim of ownership in land and right of distribution of compensation arises for the reason that: (i) appellant's name is recorded in the revenue record (Ext.RZ) (ii) he has received compensation as owner which is evident from award of Land Acquisition Officer (Ext.PX/1), (iii) he has been declared as owner of the land in question in terms of decree dated 30.11.1988.

. In response thereto, the learned counsel for the private respondents argued that the compensation awarded to the appellant vide award Ext.PX/1 is in relation to different land and the appellant has nothing to do with the land in question.

I have seen the summoned record and from the record it is clear that vide decree dated 30.11.1988 passed in Civil Case No. 192/1 of 1987 by Sub Judge, Ist Class, Bilaspur in case titled as Daulat Ram and another Vs. Chuni Lal, the claimant has been declared to be owner in possession pertaining to land measuring 2.6 bighas comprised in Khasra No.75 Min, Khewat No.93, Khatauni No.137 situated in village Nalwar, Tehsil Sadar, District Bilaspur, H.P. In my view, no advantage can be taken of the said decree as the land in question is other than the said suit land.

Perusal of award No.41 would show that the award pertains to land measuring 0-10 biswas comprised in Khasra No.75/1 in village Nalwar, Tehsil Sadar, District Bilaspur, H.P. and was passed for a sum of Rs.6486.82 paise. This is the award which is subject matter of dispute in the present appeal.

From the perusal of award No.42 being Ext.PX/1, it is clear that this award pertains to land measuring 0-10 biswas comprised in Khasra No.73/1 in village Nalwar, Tehsil Sadar, District Bilaspur, H.P. and was passed for a sum of Rs.6486.52. Incidentally the area of land and also the awarded amounts of both the awards are identical . However, the lands involved in both the awards are different. I am in agreement with the learned counsel for the private respondents that the compensation received by the appellant does not pertain to award No.41 which is in question but may pertain to award No.42 as the same is not clear from the record. But one thing is certain that award No.41 pertains to the land of Shri Puran Chand and was acquired as such. Therefore, the compensation awarded was also in his name and was to be received by him as such.

A perusal of the revenue record Ext RZ on the basis of which the claimant is claiming ownership would show that the same pertains to the year 1989 whereas the award itself was passed on 25th March, 1987. That apart in the column of ownership, name of Puran Chand is reflected whereas the name of the claimant is reflected along with the name of the State in the column of possession. It is, thus, obvious that the said record does not confer any right of ownership of the appellant. How the name of the appellant was got recorded in the column of possession along with

the State after the passing of the award is difficult to understand. The District Judge has rightly rejected the claim of appellant-Daulat Ram on the ground that he has failed to prove that he had any title in respect of the acquired land as on the date of its acquisition.

In view of the aforesaid reasons, I see no reason to interfere with the award dated 12.11.999 passed by District Judge, Bilaspur. The present appeal is dismissed.

In view of the dismissal of the present appeal, the cross objections filed by the private respondents are also dismissed. Neither the private respondents nor the State has filed any appeal challenging the enhancement of the amount of compensation awarded by the District Judge.

The interim orders dated 5th January, 2000 and 22nd May, 2000 are vacated. Respondent No.5 is directed to disburse the amount of compensation awarded in terms of the award to the private respondents within a period of four weeks from today.

(**Sanjay Karol),**
Judge.

June 14, 2007(R)